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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RANDI KREMER and JOSHUA LEOFSKY

Appeal 2019-003549
Application 15/043,681
Technology Center 3600

Before MICHAEL C. ASTORINO, BRADLEY B. BAYAT, and
TARA L. HUTCHINGS, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–9 and 11–24. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. The Appellant identifies the real party in interest as Campbell Fittings, Inc. of Boyertown, Pennsylvania. Appeal Br. 2.

STATEMENT OF THE CASE

Claimed Subject Matter

Claims 1 and 14 are the independent claims on appeal. Claim 1, reproduced below, is illustrative of the claimed subject matter.

1. A hose coupler comprising:

a hose adapter including opposing ends, an interior surface forming a fluid passage between the opposed ends, and an exterior surface including a series of barbs for engaging an interior surface of a hose; and

a ferrule having a proximal end connected to the hose adapter at an attachment point and a distal end defining an opening through which the hose is inserted, the ferrule being positioned to at least partially surround the exterior surface of the hose adapter, the ferrule having an interior surface facing the exterior surface of the hose adapter, the ferrule defining at least one cutting rib extending from the interior surface of the ferrule and having a corner or edge for piercing an outer layer of the hose, and the ferrule defining a plurality of compression ribs located distally of the at least one cutting rib, wherein an entirety of each compression rib is a rounded surface extending from the interior surface of the ferrule for compressing the hose against the series of barbs, wherein the at least one cutting rib extends closer toward a longitudinal axis of the hose adapter than the plurality of compression ribs,

wherein the ferrule is moveable between a pre-swaged configuration in which the at least one cutting rib faces the outer layer of the hose, and a swaged configuration in which the at least one cutting rib pierces the outer layer of the hose.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Smith et al. (“Smith”)	US 6,764,106 B1	July 20, 2004
Lefere et al. (“Lefere”)	US 2004/0032124 A1	Feb. 19, 2004
Lamontia	US 2010/0117355 A1	May 13, 2010
Andres	DE 1273931	July 25, 1968
Duffield et al. (“Duffield”)	GB 2022744 A	Dec. 19, 1979
Sautmann	DE 10126429 A1	Dec. 5, 2002
Gorski	DE 10246226 A1	Apr. 15, 2004

REJECTIONS²

Claims 1, 2, 4–9, 11, 13–18, and 21–24 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield and Sautmann.

Claim 3 is rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Sautmann, and Smith.

Claims 11, 12, 19, and 20 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Sautmann, and Lefere.

Claims 1, 2, 4–9, 11, 13–18, and 21–24 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield and Gorski.

Claim 3 is rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Gorski, and Smith.

Claims 11, 12, 19, and 20 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Gorski, and Lefere.

² For purposes of clarity, we separate the Examiner’s alternative grounds of rejection into separate statements. Also, although the Examiner sets forth separate statements for the rejection of some claims (Final Act. 2–3, 12), we consolidate the statements into a single ground of rejection because they are each based upon same the combination of references.

Claims 1, 2, 4–9, 11, 13–18, and 21–24 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield and Andres.

Claim 3 is rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Andres, and Smith.

Claims 11, 12, 19, and 20 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Andres, and Lefere.

Claims 1, 2, 4–9, 11, 13–18, and 21–24 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield and Lamontia.

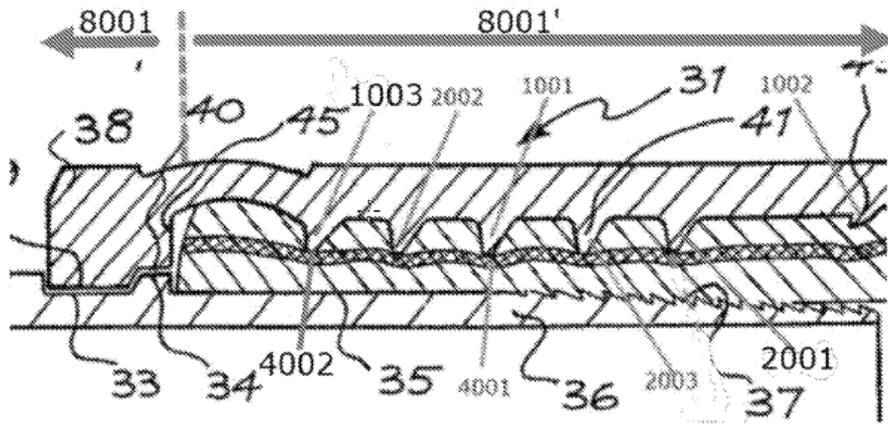
Claim 3 is rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Lamontia, and Smith.

Claims 11, 12, 19, and 20 are rejected under 35 U.S.C. § 103 as unpatentable over Duffield, Lamontia, and Lefere.

ANALYSIS

Independent claim 1 calls for a “hose coupler” including a “ferrule defining *at least one cutting rib* extending from the interior surface of the ferrule and having a *corner or edge* for piercing an outer layer of the hose.” Appeal Br. 13 (Claims App.) (emphases added). Independent claim 14, includes a similar limitation. *See id.* at 14.

The Examiner finds Duffield’s ferrule 31 includes buttress 41, which corresponds to the “at least one cutting rib.” *See* Final Act. 4. In support of this finding, the Examiner copies and annotates a portion of Duffield’s Figure 3, which is reproduced below. *Id.*



Duffield’s “Figure 3 shows a half-sectional view of a swaged-type end fitting attached to a hose end” (Duffield 2:1–2); and, the annotations identify portions of the fitting that correspond to portions of the claimed hose coupler (Final Act. 4–5). Specifically, the Examiner uses number “1001” (hereinafter “buttress 1001”) to identify the portion of Duffield’s fitting that corresponds to the claimed “at least one cutting rib” and number “4001” (hereinafter “surface 4001”) to correspond to the claimed “corner or edge.”³ *Id.* at 4.

The Appellant argues that surface 4001 of buttress 1001 is not “a corner or edge,” as required by claims 1 and 14. *See* Appeal Br. 7, 9; Reply Br. 2, 3. The Appellant’s argument is persuasive.

The Examiner offers two dictionary definitions of “edge” in support of the finding that surface 4001 of buttress 1001 includes a “corner or edge.” *See* Ans. 6 (citing American Heritage Online Dictionary and Merriam-Webster’s Online Dictionary); *see also* Final Act. 4, 13. Each dictionary definition is applied to the copied and annotated portion of Figure 3 shown

³ The Examiner identifies other cutting ribs (i.e., numbers 1002 and 1003) of Duffield’s fitting, but explains that neither of these other cutting ribs correspond to the claimed “at least one cutting rib.” Ans. 8; *see* Final Act. 4–5.

above, and the Examiner finds that Duffield's disclosure implies that buttness 1001 has a cutting edge, but not a sharp cutting edge. Ans. 7 (citing Duffield, col. 3, ll. 33–36).

Duffield at page 3, lines 33–36 concerns the arrangement shown in Duffield's Figure 3 and describes, "buttresses 41 have an approximately constant cross-section and, unlike the arrangement shown in Figures 1 and 2, none of the buttresses is formed with a sharp cutting edge."⁴ The foregoing suggests that buttresses 41 have a structure with an approximately constant cross-section, which is otherwise non-specific in shape or profile, except for the lack of a sharp cutting edge. As for Duffield's Figure 3, we determine that the figure does not show surface 4001 clearly enough to determine that it includes a corner or edge. Consequently, we determine that the Examiner's finding that Duffield's disclosure implies that buttness 1001 has a cutting edge, but not a sharp cutting edge, is inadequately supported.

Further, we determine that one of ordinary skill in the art would understand from Duffield's description at page 3, lines 33–36 that the lack of a sharp cutting edge is significant. Indeed, the reference to the sharp cutting edge in the embodiment shown in Figures 1 and 2 is directed to Duffield's reference number 28, which is described as a sharp end portion of the buttness-forming helix.⁵ Duffield 2:83–84. The buttness-forming helix of

⁴ Figures 1 and 2 are directed to one embodiment of Duffield's invention, specifically, "a screw-type end fitting attached to a hose end." Duffield 1:124–129. Duffield's Figure 3 is directed to a different embodiment, specifically, "a swaged-type end fitting attached to a hose end." Duffield 2:1–2. The Examiner relies on the embodiment as shown in Figure 3. Final Act. 4–5.

⁵ Duffield's reference number 28 is also referred to as "sharp cutting profile" and "cutting edge." Duffield 2:69–70, 115.

the arrangement of Figures 1 and 2 also includes buttresses 20 and their crests 22, which are described as “slightly rounded” to avoid a sharp edge so as to not sever hose 12’s wire-braid reinforcement. Duffield 2:25–40, 48–63, 123–124; *see id.* at Figs. 1–2; Appeal Br. 7 (citing Duffield 2:59–60). Additionally, we determine that the sectional view of buttress 1001 and its crest (i.e., surface 4001), is depicted in the same manner as buttresses 20 and crests 22 in Figure 1, and is described as having the same cross-sectional profile. *See* Duffield 3:23–31, Figs. 1 and 3; Appeal Br. 7 (citing Duffield 3:23–31). Therefore, we determine that it is reasonable that one of ordinary skill in the art would understand that buttress 1001’s crest (i.e., surface 4001) may also be slightly rounded. If such were the case, then surface 4001 would be devoid of a corner or edge.

In view of the foregoing, we determine that the Examiner’s finding that the claimed “corner or edge” of the “at least one cutting rib” reads on surface 4001 of buttress 1001 is inadequately supported. The Examiner does not rely on the teachings of Sautmann, Gorski, Andres, Lamontia, Smith, and/or Lefere, in any manner that remedies the deficient finding. Thus, we do not sustain the Examiner’s rejections of independent claims 1 and 14 and dependent claims 2–9, 11–13, and 15–24.

CONCLUSION

In summary:

Claims Rejected	Basis	Affirmed	Reversed
1, 2, 4–9, 11, 13–18, 21–24	§ 103 Duffield, Sautmann		1, 2, 4–9, 11, 13–18, 21–24
3	§ 103 Duffield, Sautmann, Smith		3

Claims Rejected	Basis	Affirmed	Reversed
11, 12, 19, 20	§ 103 Duffield, Sautmann, Lefere		11, 12, 19, 20
1, 2, 4-9, 11, 13-18, 21-24	§ 103 Duffield, Gorski		1, 2, 4-9, 11, 13-18, 21-24
3	§ 103 Duffield, Gorski, Smith		3
11, 12, 19, 20	§ 103 Duffield, Gorski, Lefere		11, 12, 19, 20
1, 2, 4-9, 11, 13-18, 21-24	§ 103 Duffield, Andres		1, 2, 4-9, 11, 13-18, 21-24
3	§ 103 Duffield, Andres, Smith		3
11, 12, 19, 20	§ 103 Duffield, Andres, Lefere		11, 12, 19, 20
1, 2, 4-9, 11, 13-18, 21-24	§ 103 Duffield, Lamontia		1, 2, 4-9, 11, 13-18, 21-24
3	§ 103 Duffield, Lamontia, Smith		3
11, 12, 19, 20	§ 103 Duffield, Lamontia, Lefere		11, 12, 19, 20
Overall Outcome			1-9, 11-24

REVERSED